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HOUSE BILL 795 By
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SENATE BILL 1118
By Herron

AN ACT to amend Tennessee Code Annotated, Section 37-1-114,
relative to the detention of children charged with delinquent
acts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-114, is amended by deleting the
section in its entirety and substituting instead the following:

(a) A juvenile taken into custody on a delinquency charge may not be detained in
a secure facility unless:

(1) The juvenile is charged with an offense that, if committed by an adult,
would constitute a Class A, B, or C felony;

(2) The juvenile is charged with an offense that, if committed by an adult,
would constitute a felony and the juvenile:

(A) Is currently on probation or aftercare;

(B) Is currently awaiting court action on a previous delinquent
offense;

(C) Is currently under court supervision for a previous delinquent
offense;

(D) Has been adjudicated delinquent in the past twelve (12) months; or

(E) Has failed to appear for a court proceeding in the last twelve (12) months.

(3) The juvenile is charged with escape;

(4) The juvenile is charged with the unlawful possession of a handgun or carrying a weapon as prohibited by Tennessee Code Annotated, Title 39, Chapter 17, part 13;

(5) The juvenile is charged with contempt of court or is alleged to be in violation of a valid court order;

(6) The juvenile is wanted in another jurisdiction; or

(7) The juvenile is charged with an offense and special circumstances exist indicating the child should be detained; however, in such case the judge shall, within forty-eight (48) hours, issue a written order setting out the reasons for detention.

(b) If a juvenile is detained pursuant to subsection (a) of this section, the juvenile is entitled to a detention review within seventy-two (72) hours (excluding non-judicial days) by a judicial officer. The judicial officer, based on the charge and the juvenile's record or court history, shall make a determination as to whether the juvenile should be detained for a preliminary hearing or released to the appropriate custodian and the case redocketed for settlement pursuant to local rules.

(c) If a juvenile is detained after detention review, the juvenile is entitled to a preliminary hearing within ten (10) days from the time the juvenile was taken into custody. At the preliminary hearing, a judicial officer shall determine whether there is probable cause to believe the juvenile committed the offense that is charged. If probable cause is not found, the case shall be dismissed and the juvenile released. If probable

cause is found, the judicial officer must then determine if the juvenile shall remain in detention or be released to a custodian on the issuance of an appearance bond or bail.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.